

UPDATES- Central Excise January 2009

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Case Laws

Usha Ispat Industries Ltd Vs CCE Pune II (2009-TIOL-113-CESTAT-MUM)

Facts: - Capital goods were imported in December 1996 for setting up of sinter plant for conversion of iron ore fines to agglomerated iron ore which was exempted from duty of excise and credit on capital goods were not taken initially but 50% credit availed after advent of new Rule from 01.04.2000. The goods were however not installed. Balance 50% credit was availed in the subsequent year.

Issue: - The credit of 50% availed in 2001-02 was denied by the Commissioner. He dropped demand on reversal of credit availed during the year 2000-01 holding it to be time barred.

Decision: - Commissioner should have examined the basic issue as to whether credit was available on capital goods meant for use in manufacture of exempted goods. The Commissioner was ordered to pass a fresh order of adjudication after consideration of all relevant issues.

M/s Big Bags India (P) Ltd Vs CCE Bangalore (2009-TIOL-150-CESTAT-Bang)

Facts: - The assessee had exported goods under DFIA scheme and at the same time claimed rebate of excise duty paid on final products at the time of clearance of such goods from the factory. The duty had been paid by utilising credits of raw materials procured which had not been procured against the authorisation.

Issue: - The revenue sought to recover the rebate sanctioned earlier as the rebate was claimed on goods exported under DFIA scheme

Decision: - The recovery proceedings were stayed as the rebate on goods exported was distinguished from the rebate of duty on materials procured.

Sterlite Industries (I) Ltd Vs CCE Tirunelveli (2009-TIOL-99-CESTAT-MAD)

Facts: - The assessee had exported copper cathode and copper wire rods under claim for rebate of duty of excise and cleared the goods for export under Invoice and ARE 1 mentioning the CIF value of the goods. The value charged on the invoice was provisional and later on supplementary invoices had been raised for additional value to be charged to the customer once the final price was known. The rebate claim extended to duty paid on supplementary invoices raised on export.

Issue: - The department sought to recover the rebate sanctioned on the ground that the claim had been made on CIF value as well as the fact that rebate had also been claimed on supplementary invoices raised post clearance under ARE 1.

Decision: - The rebate was held to be allowable on the duty of excise paid on export of goods including the amount paid on supplementary invoices. The order seeking recovery of rebate was set aside.